

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

STEPHEN PATRICK KELLY,

Plaintiff,

vs.

MERRELL FOOTWARE, INC. and  
YELLOWSTONE SPORTS  
RETAILER, L.L.C.,

Defendants.

CV 23-20-BLG-SPW

ORDER ADOPTING  
MAGISTRATE'S FINDINGS  
AND RECOMMENDATIONS

United States Magistrate Judge Timothy Cavan filed Findings and Recommendations on June 22, 2023. (Doc. 9). Judge Cavan recommended that the Court dismiss this case for failure to prosecute and comply with the Court's orders. (Doc. 9 at 2).

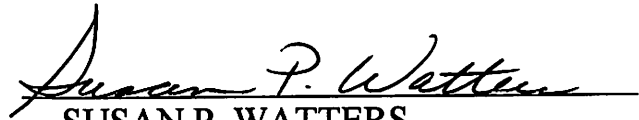
Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find Judge Cavan committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by Judge Cavan (Doc. 9) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that this case is dismissed without prejudice.

DATED this 14<sup>th</sup> day of July, 2023.

  
SUSAN P. WATTERS  
United States District Judge